

JYNIFUR S. BAKER
Claimant

NORCRAFT COMPANY INC.
Respondent

GENERAL INSURANCE COMPANY OF AMERICA
Insurance Carrier

ORDER

APPEARANCES

RECORD AND STIPULATIONS

ISSUES

Did the Assistant Director err in failing to recuse Judge Moore from these proceedings?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire evidentiary file contained herein, the Board finds that claimant's appeal in this matter should be dismissed.

Claimant suffered accidental injury through a series of injuries beginning April of 1999 and continuing through June 5, 2002. The nature of claimant's injuries involved repeated minor traumas to her upper extremities. Claimant underwent ulnar nerve releases to each elbow and median nerve releases at each wrist. Claimant has been diagnosed with bilateral carpal tunnel syndrome, and bilateral rotator cuff tendinitis in her shoulders.

The matter went to litigation and in December 2001, claimant and her attorney filed a Motion to Recuse Administrative Law Judge Moore from these proceedings. The central event supporting this Motion occurred in the case of Crone v. Great Bend Cooperative Association, Docket No. 239,263. In Crone, certain events were brought to light that adversely reflected upon the reputation of a physician used by the Administrative Law Judge for the performance of independent medical examinations. A dispute resulted between claimant's attorney and Administrative Law Judge Moore regarding the strategy utilized by Mr. Riedmiller in litigating this matter.

In the present case, claimant and claimant's attorney filed affidavits alleging, based upon the events in Crone, that Judge Moore has become biased or prejudiced toward claimant and/or claimant's attorney to the point that neither claimant nor Mr. Riedmiller could obtain a fair hearing before Judge Moore.

In his letter of January 3, 2002, Judge Moore advised Assistant Director Kenneth J. Hursh that he would take no action in the listed files contained in the letter, including this docketed claim, pending a ruling on Mr. Riedmiller's motions. In his decision of February 7, 2002, Assistant Director Hursh denied claimant's Motion To Recuse Administrative Law Judge Moore.

The matter was then appealed to the Workers Compensation Board.

After the appeal to the Board, and in a settlement hearing on June 5, 2002, the dispute between claimant Jynifur S. Baker and respondent Norcraft Company, Inc., and their insurance carrier was settled as to all issues in a settlement hearing before the Honorable John C. Nodgaard, Special Administrative Law Judge. As a result of that hearing, all issues in dispute between claimant and respondent were settled for any and all injuries which claimant may have suffered through the date of the settlement, June 5, 2002. As a result of that settlement, no disputes remain before Administrative Law Judge Moore as they relate to this claimant and this respondent in this docket number.

The Board finds that any dispute regarding the requested recusal of Administrative Law Judge Moore has been rendered moot by this settlement. It is, therefore, the Board's determination that this matter, being no longer in contention, should be dismissed.

Counsel are reminded that, as officers of the Court, they are obligated to advise this Board of material facts, including notice of settlements in claims that are pending before the Board. Counsel are directed, in the future, to immediately notify the Board of a settlement hearing date as soon as they have agreed to settle a claim that is pending before the Board.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Final Order of Assistant Director Kenneth J. Hursh dated February 7, 2002, remains in full force and effect, and the appeal of claimant from that Order should be, and is hereby, dismissed.

IT IS SO ORDERED.

Dated this ____ day of June 2002.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Roger A. Riedmiller, Attorney for Claimant
Clifford K. Stubbs, Attorney for Respondent
Bruce E. Moore, Administrative Law Judge
Kenneth J. Hursh, Assistant Director
Philip S. Harness, Director